

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JENS ERK SORENSEN,) C-08-00095-JW
)
PLAINTIFF,) JUNE 30, 2008
)
V.)
)
LEXAR MEDIA, INC.,) PAGES 1- 24
)
DEFENDANT.)
-----)

THE PROCEEDINGS WERE HELD BEFORE
THE HONORABLE UNITED STATES DISTRICT
JUDGE JAMES WARE

A P P E A R A N C E S:

FOR THE PLAINTIFF: THE LAW OFFICE OF J. MICHAEL
KALER
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FOR THE DEFENDANT: WEIL, GOTSHAL & MANGES
BY: JARED BOBROW
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OFFICIAL COURT REPORTER: IRENE RODRIGUEZ, CSR, CRR
CERTIFICATE NUMBER 8074

1 IF THERE IS A COMPANY INVOLVED IN THE MANUFACTURING
2 PROCESS THAT IS NOT IN A COUNTRY THAT HAS U.S.
3 STYLING OR BRITISH STYLE DISCOVERY AND THERE IS
4 SOME ASPECT OF THE ILLEGALITY TO MAYBE DOING
5 DEPOSITIONS IN THIS COUNTRY, THAT THEN ALL YOU HAVE
6 TO DO IS WRITE A COUPLE OF LETTERS BEFORE EVER
7 FILING A COMPLAINT, AND IF YOU DON'T GET WHAT YOU
8 DEEM, NOT WHAT THE COURT MIGHT DEEM, BUT WHAT YOU
9 DEEM TO BE SUFFICIENT, IN OTHER WORDS, A
10 DECLARATION BY A PERSON WITH KNOWLEDGE THAT IS IN
11 ADMISSIBLE FORM FOR TRIAL IN A U.S. COURT FOR A
12 PRESUMPTION TO APPLY.

13 BUT THAT'S NOT WHAT THE LAW IS. THE LAW
14 IS THAT YOU HAVE TO EXERT REASONABLE EFFORTS.
15 YOU'RE RIGHT, IT'S NOT AN EXHAUSTION OF EFFORTS.

16 THE COURT: WE HAVE RULES OF DISCLOSURE.
17 HAVE YOU -- DO YOU KNOW WHO MANUFACTURES
18 THE CASE?

19 MR. KUDLAC: YES, YOUR HONOR.

20 THE COURT: HAVE YOU IDENTIFIED THAT?

21 MR. KUDLAC: WE HAVE NOT. AND THE REASON
22 FOR THAT --

23 THE COURT: WHY NOT?

24 MR. KUDLAC: THE REASON FOR THAT IS THAT
25 WE OFFERED TO IDENTIFY, BEFORE THE LAWSUIT, WE

1 OFFERED TO IDENTIFY THOSE PROVIDERS, WE HAVE
2 CONFIDENTIALITY WITH THOSE PROVIDERS.

3 THE COURT: THAT COVERED THEIR NAMES.

4 MR. KUDLAC: THAT COVERS THE PROCESS THEY
5 USE.

6 THE COURT: DOES IT COVER THEIR NAMES?

7 MR. KUDLAC: I DON'T BELIEVE IT COVERS
8 THEIR NAMES.

9 THE COURT: SO THERE'S NO REASON THAT YOU
10 CAN'T IDENTIFY THE COMPANIES THAT MANUFACTURE THE
11 CASE?

12 MR. KUDLAC: THAT'S CORRECT.

13 THE COURT: WHY DIDN'T YOU?

14 MR. KUDLAC: WE DIDN'T BEFOREHAND BECAUSE
15 WE WERE CONCERNED ABOUT THE CONFIDENTIALITY
16 REQUIREMENTS THAT WE HAD WITH RESPECT TO THE
17 PROCESSES THAT WERE BEING USED.

18 THE COURT: BUT DON'T YOU TOY WITH THE
19 PROSPECT THAT THE COURT WOULD GRANT THIS MOTION IF
20 YOU SET UP AN OBJECTION OR A FAILURE TO DISCLOSE
21 UNDER CIRCUMSTANCES THAT ARE AS CURIOUS AS WE JUST
22 CHOOSE NOT TO?

23 MR. KUDLAC: WELL, YOUR HONOR, IN
24 HINDSIGHT, WOULD IT HAVE BEEN BETTER TO AVOID THIS
25 IF MERELY DISCLOSING THEIR NAMES WOULD HAVE AVOIDED

1 THIS SITUATION? THAT WOULD HAVE BEEN --

2 THE COURT: SO YOU KNOW THEIR NAMES AND
3 YOU CAN IDENTIFY.

4 WHO IS IT THAT CONTRACTED WITH THESE
5 COMPANIES TO MANUFACTURE THE CASE? DID LEXAR OR
6 SOMEONE ELSE?

7 MR. KUDLAC: IT WAS LEXAR.

8 THE COURT: SO YOU HAVE A CONTRACT IN
9 WRITING WITH THEM?

10 MR. KUDLAC: I DON'T KNOW IF THERE'S PER
11 SE A CONTRACT, BUT THERE ARE PURCHASE ORDERS AND
12 THERE'S A CONFIDENTIALITY AGREEMENT WITH RESPECT TO
13 THEM, YOUR HONOR.

14 THE COURT: RIGHT, BUT THE PURCHASE ORDER
15 MUST SET UP WHO MADE THE TOOL.

16 MR. KUDLAC: THE ACTUAL DIE TOOL?

17 THE COURT: THAT'S RIGHT.

18 MR. KUDLAC: THAT WAS NOT LEXAR.

19 THE COURT: SO THE COMPANY THAT
20 MANUFACTURES MADE THE TOOL OR DID YOU SPECIFY THE
21 TOOL?

22 MR. KUDLAC: THE TOOL WAS MADE BY EITHER
23 THE MANUFACTURER OR SOMEONE THAT THEY
24 SUBCONTRACTED. WE DON'T KNOW EXACTLY WHO MADE THAT
25 TOOL AT THIS POINT, YOUR HONOR.